

## PREMEDITATED GOWARDLY MURDER

**Asst. Dist. Atty. Garvan Tells  
Thaw Jury Killing of White  
Will be so Explained.**

DEFENDANT'S WIFE PRESENT

**Listened to Discussion of Details  
Of Tragedy on Roof Garden  
With Dramatic Features.**

No Motion to Exclude Witnesses—Jas  
C. Smith, White's Brother-in-  
Law, Was Second Witness.

New York, Jan. 13.—Before the opening of court today, A. Russell Peabody, attorney for Thaw, stated that an application for a commission to go to Pittsburgh and take the testimony of Mrs. William Thaw would be made as the defendant's mother had telegraphed she would come to New York when needed. Mrs. Thaw is still very sick, but the value of her testimony as a personal recital rather than in the form of a deposition has led the attorneys to abandon the latter proposition.

Thaw was called to the bar promptly at 10 a. m. within the next few minutes. Asst. Dist. Atty. Garvan had begun the outline of the case.

"The defense in this case," said Mr. Garvan, "is insanity. The material

assure you, is not to be defined as what you or I might think. It is not what physicians or metaphysicians may tell you, or what scientists or pseudo scientists may tell you. It is not what you may have to deal with it has been defined by the legislature of New York. You must obey it and live under the law. You must take responsibility for the act. You cannot avoid criminal responsibility, he believes, because he is so deficient of reason that he does not know the nature or quality of his act, that the act is wrong. With this definition and the foundation of the law, the judge of the court, in the acts of this defendant on the night of June 16, 1966, which is the night on which he killed Stanford White,

Mr. Garvan went to the roof garden with James Clinch Smith, a brother-in-law of Stanford White. The conversation, he declared, was entirely sane, and was indulged in just a few moments before the killing. Eight subjects, from Wall street to Ocean Trade, were discussed all in a normal way.

Mrs. Evelyn Thaw listened to the assistant prosecutor's discussion of the actual details of the tragedy with ten drawn features. Josiah Thaw, a brother, and Mrs. George Carnegie, the sister, also were present. The chief

After describing the killing of White

Mr. Gervan declared in conclusion that he was judged by any court, the prosecution believed the homicide could be explained as a "premeditated, deliberate and cowardly murder."

**FIRST WITNESS.**

W. H. Volkening, a draftsman, was the first witness called. His diagram of the scene of the killing which the prosecution used through the first trial, was introduced in evidence today. A year

ago this witness was not cross-examined. Today Mr. Littleton for the defense, questioned him at length as to all the physical details of Madison

No motion to exclude witnesses was

made today and young Mrs. Thaw and the other members of the defendant's family listened to the evidence for the first time.

Immediately after the first witness had concluded his testimony all witnesses except medical experts were excluded. Dr. John T. Deemar, the Thaw family physician, was in the courtroom and will be one of the first witnesses

for the defense.

**WITNESS CLYNCH SMITH.**

As a second witness of the prosecution Mr. Garvan examined James Clinch Smith who last year testified in rebuttal, having been abroad when the state presented its direct case. In his trial Smith described the entrance of Thaw and his party to the hotel. The defendant was Mrs. Evelyn Thaw, Thomas McCaleb and Truxyda Beale.

Mr. Smith repeated his conversation with Thaw which began by the latter saying he could only get the seat on the first of the limited straining him.

Mr. Smith's testimony followed the

given at the first trial almost identically. Thaw asked him if he was doing anything in Wall and that certain

stocks were very good. He asked Smith if he was going abroad in the summer and discussed with him the accommodations on several well known

"Thaw also asked me if I knew any members of his party," said Mr. Smith. "and wanted to know if I remembered a case in California in which Truxton Beale figured with another man and woman."

Mr. Smith's direct testimony was concluded in half an hour and then Mr. Littleton undertook his cross-examination. The witness said Stanford White married his sister but he did not see the architect very often.

**ROEF'S FATE.**  
To be Determined by Conference Between Him and Langdon.  
San Francisco, Jan. 13.—The fate of

Abraham Ruef and the future policy of the graft prosecution will be determined today at a conference to be held between the former boss and District Atty. Langdon. If the prosecution grants the demand of Ruef for complete immunity, it can proceed with the trial of the other alleged bribers, which is expected to take place within a few days.

with the aid of other's testimony. It is said to be to the effect that he was employed by the corporations as an attorney. If Ruff's demand is refused it is probable that the prosecution will have to proceed with the cases without his testimony. If the prosecution should decide to accept Ruff's proposal, it is likely that it will demand more definite testimony than he has yet given in return for the concession.